

Appl. No. 10/710,326  
Attorney Docket No. 70655.2400

### REMARKS

Applicants reply to the Office Action mailed on October 10, 2006 within two months. Thus, Applicants request an Advisory Action, if necessary. Claims 1-47 were pending and the Examiner rejects claims 1-47. Applicants amend various claims and address the Examiner's remarks. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Applicants respectfully assert that the subject matter of the various claims was commonly owned at the time the inventions covered therein were made and therefore, Applicants have complied with 37 C.F.R. § 1.56.

#### Claim Rejections

##### §103(a) Rejections

Claims 1-16, 18 and 20-46 are rejected under 35 U.S.C. §103(a) as being unpatentable over Black U.S. 6,925,565 ("Black"), in view of Justin U.S. Pub. No. 20050211784 ("Justin") and Hohle et al, U.S. Pat. No. 6,101,477 ("Hohle"). Claim 17 stands rejected over Black/Justin/Hohle in view of Moebs et al., U.S. Pub. No. 2005/0065872 ("Moebs"). Claim 19 stands rejected over Black/Justin/Hohle in view of Goodman, U.S. Pub. No. 2002/0043566 ("Goodman"). Claims 4, 22, 34, and 40 stand rejected over Black/Justin/Hohle in view of Black U.S. Pub. No. 2005/0122209 ("Black II"). Applicants respectfully traverse these rejections.

Black and Black II discloses various combined biometric authorizations for transactions, e.g., signature and fingerprint verification. Hohle discloses a smartcard for storing travel-related information. Justin discloses a universal identification card having a biometric sensor. While Black, Hohle, Justin, and Black II may disclose various smartcard transaction and biometric security technologies, neither Black, Hohle, Justin, Black II, nor any combination thereof, disclose or suggest at least a smartcard transaction system including a smartcard with "a smellprint sensor configured to detect a proffered smellprint sample to generate data representing said proffered smellprint sample, said smellprint sensor configured to communicate with said system; said system configured to use said data representing said proffered smellprint sample as a variable in an encryption calculation to secure at least one of user data and transaction data," as recited in amended independent claim 1.

Appl. No. 10/710,326  
Attorney Docket No. 70655.2400

Similarly, neither Black, Hohle, Justin, Black II, nor any combination thereof, disclose or suggest at least a method of facilitating a smartcard transaction system including "generating data representing said proffered smellprint sample; and using said data representing said proffered smellprint sample as a variable in an encryption calculation to secure at least one of user data and transaction data," as recited in independent claim 23 and as similarly recited in independent claim 35.

Accordingly, Applicants assert that claims 1, 23 and 35 are patentable over the cited references. Similarly, claims 2-22, 24-34, 36-47 variously depend from claims 1, 23, and 35 and contain all of the respective elements thereof. Therefore, Applicants respectfully submit that these claims are differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features.

For example, neither Black, Hohle, Justin, Black II, nor any combination thereof, disclose or suggest at least a smartcard transaction system "configured to use said data representing said proffered smellprint sample as at least one of a private key and a public key to facilitate encryption security associated with said transaction" as recited in amended claim 3. Similarly, neither Black, Hohle, Justin, Black II, nor any combination thereof, disclose or suggest at least a smartcard transaction system "configured to use said data representing said proffered smellprint sample in generating a message authentication code" as recited in claim 4.

Neither Black, Hohle, Justin, Black II, nor any combination thereof, disclose or suggest at least a smartcard transaction system "configured to use said data representing said proffered smellprint sample as a message authentication code and as at least one of a private key and a public key to secure at least one of user data and transaction data," as recited in claim 20 and as similarly recited in claims 29 and 40. Similarly, neither Black, Hohle, Justin, Black II, nor any combination thereof, disclose or suggest at least a transaction method "further comprising using said data representing said proffered smellprint sample to facilitate substantially simultaneous access to goods and initiation of authentication for a subsequent purchase of said goods," as recited in claims 33 and 46.

The amendments to the claims are supported in the specification by at least paragraphs [00331-00332]:

Appl. No. 10/710,326  
Attorney Docket No. 70655.2400

[00331] In another exemplary embodiment of the present invention, one or more biometric samples may be used to sign and/or encrypt information. For example, smartcard 100 and/or reader 2500 may be configured to receive a biometric sample from a user. The sample may then be digitized and used, for example, as a variable in an encryption calculation to secure data. If the user wants to retrieve the encrypted data, the user must submit the relevant biometric sample and have it authenticated by any of the methods described herein. Once the biometric sample is authenticated, the data will be decrypted for access.

[00332] Similarly, a biometric may be used as both a private key and a public key for encryption purposes. In one exemplary embodiment, an entity may use stored biometric sample information to encrypt data in a manner similar to a public key. The data may then be configured such that it is only accessible by a real biometric sample, for example, by a user proffering a fingerprint sample at a reader. Upon verification of the real biometric sample, the data may be decrypted and/or retrieved.

Additional support is found in at least paragraphs [00138-00146, 00249, 00253, 00316, and 00320]

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-47.

Appl. No. 10/710,326  
Attorney Docket No. 70855.2400

### CONCLUSION

Applicants respectfully submit that the pending claims (47 total, 3 independent) are in condition for allowance. The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 19-2814. Applicants invite the Examiner to telephone the undersigned if the Examiner has any questions regarding this Reply or the application in general.

Respectfully submitted,

Dated: December 8, 2006

By: 

Howard I. Sobelman  
Reg. No. 39,038

**SNELL & WILMER L.L.P.**  
400 E. Van Buren  
One Arizona Center  
Phoenix, Arizona 85004  
Phone: 602-382-6544  
Fax: 602-382-6070  
Email: kdorius@swlaw.com

1925688

AmExp 200501327

15

**BEST AVAILABLE COPY**